

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

JAMES ERIC LOFTEN	§	
v.	§	CIVIL ACTION NO. 5:06cv216
MARCIA CRONE, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff James Loften, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Magistrate Judge accurately summed up Loften's complaint as follows:

Loften complains that the United States District Judges for the Southern District of Texas, in Houston and Corpus Christi, and the Eastern District of Texas, in Beaumont, are engaged in a criminal conspiracy with the state district courts in Bee County and the mailroom officials in TDCJ-CID to kill him, deprive him of his liberty, and obstruct his access to courts. His allegations are patent nonsense. No further discussion is required or deserved.

The Magistrate Judge went on to observe that Loften is an inveterate filer of frivolous and malicious lawsuits, and that he has been cited by the Fifth Circuit as having filed at least three lawsuits or appeals which have been dismissed as frivolous or for failure to state a claim upon which relief may be granted. See In re Loften, slip op. no. 99-00085 (5th Cir., Feb. 1, 2000). Loften has also incurred sanctions from the Fifth Circuit and the Northern District of Texas for his abuse of the judicial process.

On October 23, 2006, the Magistrate Judge issued a Report recommending that Loften's complaint be dismissed with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as presented in this action, but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. The Magistrate Judge also observed that Loften would have to show that he has satisfied all of the sanctions imposed upon him before he could refile his lawsuit, and stated that additional sanctions could be imposed if Loften attempted to refile his lawsuit without meeting these conditions.

A copy of the Magistrate Judge's Report was sent to Loften at his last known address, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's application for leave to proceed *in forma pauperis* is DENIED and that the above-styled civil action be and hereby is DISMISSED with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice as to the refiling of the lawsuit without seeking *in forma pauperis* status and upon payment of the full \$350.00 filing fee. It is further

ORDERED that Loften is placed on notice that before he can refile his lawsuit, he must show that all of the sanctions imposed on him, by the Fifth Circuit or any federal district court within the jurisdiction of the Fifth Circuit, have been satisfied. Loften is further placed on notice

that should he attempt to refile his lawsuit without meeting these prerequisites, he may be subject to further sanctions, monetary or otherwise. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

**SIGNED this 13th day of December, 2006.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE